<u>REMARKS</u>

In the Office Action dated August 21, 2007, claims 1, 3, 6-15, 17, and 19-20 were rejected under 35 U.S.C. 103(a) over Haartsen (US 7,016,372) in view of Helferich (US 7,039,428); and claims 4, 5, and 18 were rejected under § 103(a) over Haartsen in view of Helferich and Schoch (US 5,973,609).

To make a determination under 35 U.S.C. § 103(a), several basic factual inquiries must be performed, including determining the scope and content of the prior art, and ascertaining the differences between the prior art and the claims at issue. *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 U.S.P.Q. 459 (1965). Moreover, as the U.S. Supreme Court recently held, it is important to identify a reason that would have prompted a person of ordinary skill in the art to combine reference teachings in the manner that the claimed invention does. *KSR International Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1741, 82 U.S.P.Q.2d 1385 (2007).

Here, a comparison of the claimed subject matter with the teachings of Haartsen and Helferich will reveal that the claimed subject matter is significantly different from the teachings of the cited references. In fact, even if, hypothetically, one were to combine the teachings of Haartsen with those of Helferich, one would not arrive at the claimed subject matter.

As conceded by the Office Action, Haartsen fails to disclose the means for transmitting polling messages to the user equipment to request that the user equipment acknowledges receipt of the second data blocks. 8/21/2007 Office Action at 3. However, the Office Action relied upon Helferich as disclosing the claimed subject matter missing from Haartsen. *Id.* Specifically, the Office Action cited the following passage of Helferich: col. 8, lines 17-65. The cited passage refers to a paging system 30 issuing a page call through a base station 34 to a pager 100. After issuing the page call, the paging system 30 determines whether an acknowledgment has been received from the pager 100.

However, sending a page and then waiting to see if the page was acknowledged by the recipient, as taught by Helferich, is completely different from the claimed subject matter, which relates to transmitting second data blocks to the user equipment, and transmitting polling messages (**after** transmitting the second data blocks) to the user equipment to request that the user equipment acknowledges receipt of the second data blocks. Acknowledgment of a page by a recipient, as taught by Helferich, does not differ from any conventional acknowledgment mechanism. The claimed invention relates to something quite different from the teachings of

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Haartsen and Helferich, namely that polling messages are sent to user equipment to request the user equipment acknowledge data blocks sent to the user equipment, with the polling messages sent **after** sending the data blocks to the user equipment, and with a polling interval for transmission of such polling messages set dynamically according to one or more of the criteria specified in claim 1.

In view of the foregoing, it is clear that even if Haartsen and Helferich could be hypothetically combined, their hypothetical combination would not have led to the claimed subject matter and, in fact, would have led to subject matter significantly different from the claimed subject matter.

Moreover, it is respectfully submitted that no reason existed that would have prompted a person of ordinary skill in the art to combine the teachings of Haartsen and Helferich. *See KSR*, 127 S. Ct. at 1741.

Haartsen describes a polled communication system in which a master device periodically polls each of the slaves in the system. The purpose of the poll is to give a slave permission to send data as part of a scheduling protocol. *See* Haartsen, 8:67-9:4 ("The master has....complete control over which slave can send information because a slave cannot transmit unless it is polled in a preceding slot."). A slave is polled even if it has no data to send. *See id.*, 9:4-7 ("If the master has no information to send to the slave, it is preferable for the master still to occasionally poll the slave for the purpose of finding out whether the slave has information to send."). Thus, Haartsen is completely un-related to sending polling messages to request a user equipment acknowledge receipt of data blocks sent to the user equipment. In fact, the concept of acknowledgment is completely irrelevant in Haartsen, since the master polls the slave to cause the slave to send data to the master, as part of the scheduling protocol of Haartsen. Since the master has asked the slave to send the data, it would be completely unnecessary, and in fact, wasteful of bandwidth resources, for the slave to send acknowledgments.

In contrast, Helferich relates to a paging system paging a pager, and determining whether the pager has acknowledged the page. The concept of a pager acknowledging a page is completely un-related to the scheduling protocol described in Haartsen.

In view of the foregoing, it is clear that no reason existed to prompt a person of ordinary skill in the art to combine Haartsen and Helferich.

Therefore, it is respectfully submitted that a *prima facie* case of obviousness has not been established with respect to claim 1.

Independent claims 13 and 15 are similarly allowable over Haartsen and Helferich.

Dependent claims are allowable for at least the same reasons as corresponding independent claims.

The teachings of Schoch fail to overcome the deficiencies of Haartsen and Helferich, and therefore it is respectfully submitted that the obviousness rejection of dependent claims 4, 5, and 18 over Haartsen, Helferich, and Schoch is defective for reasons similar to those given above.

Schoch fails to teach claim features missing from Haartsen and Helferich. Schoch describes a communication system with data terminals and controllers. In a similar manner to Haartsen, Schoch describes polling data terminals for the purpose of granting the data terminals permission to transmit data. Schoch, 6:19-31. Schoch does not describe polling a user equipment to determine if the user equipment received data, nor does it describe dynamically setting a polling interval for the transmission time of this polling message. The only acknowledgment described in Schoch is that of the controller acknowledging the transmission of a data terminal (see col.6 lines 19-21), and not of a user equipment acknowledging receipt of data blocks.

For these reasons, even if, hypothetically, one of ordinary skill in the art were to combine Haartsen, Helferich, and Schoch, they would not arrive at the subject matter of claims 4, 5, and 18.

In view of the foregoing, allowance of all claims is respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 20-1504 (BGC.0002US).

Respectfully submitted,

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